

NORTH CAROLINA GENERAL ASSEMBLY  
1969 SESSION

CHAPTER 1228  
SENATE BILL 178

1 AN ACT ENABLING EACH OF THE COUNTIES OF THE STATE TO HOLD A SPECIAL  
2 ELECTION FOR THE PURPOSE OF CONSIDERING WHETHER A COUNTY SHALL  
3 OR SHALL NOT IMPOSE AND LEVY A SALES AND USE TAX OF ONE PER CENT  
4 (1%) UPON CERTAIN TAXABLE TRANSACTIONS.

5  
6 The General Assembly of North Carolina do enact:

7  
8 **Section 1.** Article 5 of Chapter 105 of the General Statutes of North Carolina is  
9 hereby amended by adding at the end thereof, immediately following G.S. 105164.44, a new  
10 division to be designated as Division IX and reading as follows:

11 "Division IX. Title and Purpose

12 **G.S. 105-164.45. Short title.** This division shall be known as the 'Local Option Sales and Use  
13 Tax Act'.

14 **G.S. 105-164.46. Purpose and intent.** It is the purpose of this Act to provide the counties and  
15 municipalities of this State with an added source of revenue and to assist them in meeting their  
16 growing financial needs by providing that counties may by special election adopt and levy a  
17 one per cent (1%) sales and use tax as hereinafter provided.

18 **G.S. 105-164.47.** County elections as to adoption of local sales and use tax. The board of  
19 elections of each county shall call and conduct a special election on Tuesday, November 4,  
20 1969, for the purpose of submitting to the voters of each such county the question of whether a  
21 one per cent (1%) sales and use tax as hereinafter provided will be levied.

22 The special election shall be held under the same rules and regulations applicable to the  
23 election of members of the General Assembly. A new registration of voters is not required and  
24 all qualified voters in each county who are properly registered prior to the registration for the  
25 special election, as well as those voters who register for the special election, shall be entitled to  
26 vote in said election. The board of elections of each county shall give at least twenty (20) days'  
27 public notice prior to the opening of the registration books for the special election, and the  
28 registration books shall remain open for the same period of time before the special election as is  
29 required by law for a regular election.

30 The board of elections of each county shall prepare ballots for the special election which  
31 shall contain the words, 'FOR the one per cent (1%) local sales and use tax', and the words,  
32 'AGAINST the one per cent (1%) local sales and use tax', with appropriate squares so that each  
33 voter may designate his vote by his cross (x) mark.

34 **G.S. 105-164.48.** Subsequent county elections as to adoption of local sales and use tax. The  
35 board of elections of any county in which the local sales and use tax is not approved in the  
36 special election authorized by G.S. 105-164.47, upon the written request of the board of county  
37 commissioners thereof, or upon receipt of a petition signed by qualified voters of the county  
38 equal in number to at least fifteen percent (15%) of the total number of votes cast in the county  
39 at the last preceding election for the office of Governor, shall call a special election for the  
40 purpose of submitting to the voters of the county the question of whether a one per cent (1%)  
41 sales and use tax as hereinafter provided will be levied.

42 The special election shall be held under the same rules and regulations applicable to the  
43 election of members of the General Assembly. A new registration of voters is not required and

all qualified voters in the county who are properly registered prior to the registration for the special election, as well as those voters who register for the special election, shall be entitled to vote in said election. The county board of elections shall give at least twenty (20) days' public notice prior to the opening of the registration books for the special election, and the registration books shall remain open for the same period of time before the special election as is required by law for a regular election.

The county board of elections shall prepare ballots for the special election which shall contain the words. 'FOR the one per cent (1%) local sales and use tax', and the words, AGAINST the one per cent (1%) local sales and use tax', with appropriate squares so that each voter may designate his vote by his cross (x) mark.

The county board of elections shall fix the date of the special election; provided, however, that the special election shall not be held on the day of any biennial election for county officers, nor within sixty (60) days thereof, nor within one (1) year from the date of the last preceding special election under this division.

**G.S. 105-164.49. Effect of election in counties levying local sales and use tax.** No special election held pursuant to this Act shall have the effect of repealing or altering in any manner whatsoever any local sales and use tax adopted and levied pursuant to Chapter 1096 of the Session Laws of 1967, or pursuant to any other local Act heretofore or hereafter enacted.

**G.S. 105-164.50. Effective date of tax.** In the event a majority of those voting in a special election held pursuant to either G.S. 105-164.47 or G.S. 105-164.48 shall approve the levy of the local sales and use tax, the tax shall be levied beginning on the first day of the month following the expiration of ninety (90) days from the date of the special election. Upon receipt of a certified statement from the county board of elections of the result of a special election held pursuant to either G.S. 105-164.47 or G.S. 105-164.48 approving the tax in a county, the Commissioner of Revenue shall proceed as authorized in this division to administer the tax in such county; provided, however, that the tax shall not be levied in Edgecombe County unless a majority of those voting in a special election in Edgecombe County and a majority of those voting in a special election in Nash County shall approve the levy of the tax, and the tax shall not be levied in Nash County unless a majority of those voting in a special election in Nash County and a majority of those voting in a special election in Edgecombe County shall approve the levy of the tax; provided, further, special elections in Edgecombe County or Nash County approving the levy of the tax need not have been held simultaneously.

**G.S. 105-164.51. Sales tax imposed; Limited to items on which the State now imposes a 3% sales tax.** The sales tax which may be imposed under this division is limited to a tax at the rate of one percent (1%) of: (1) the sale price of those articles of tangible personal property now subject to the three percent (3%) sales tax imposed by the State under G.S. 105-164.4(1); (2) the gross receipts derived from the lease or rental of tangible personal property where the lease or rental of such property is an established business now subject to the three percent (3%) sales tax imposed by the State under G.S. 105-164.4(2); (3) the gross receipts derived from the rental of any room or lodging furnished by any hotel, motel, inn, tourist camp or other similar public accommodations now subject to the three percent (3%) sales tax imposed by the State under G.S. 105-164.4(3); and (4) the gross receipts derived from services rendered by laundries, dry cleaners, cleaning plants and similar type businesses now subject to the three percent (3%) sales tax imposed by the State under G.S. 105-164.4(4).

The exemptions and exclusions contained in G.S. 105-164.13 shall apply with equal force and like manner to the local sales tax authorized to be imposed and levied under this division. The county shall have no authority, with respect to the local sales and use tax, imposed under this division, to change, alter, add or delete any exemptions or exclusions contained under G.S. 105-164.13.

The local sales tax authorized to be imposed and levied under the provisions of this division shall be applicable to such retail sales, leases, rentals, rendering of services, furnishing of

lodging or accommodations and other taxable transactions which are made, furnished or rendered by retailers whose place of business is located within the taxing county. The tax so imposed and levied shall apply to the furnishing of rooms, lodging or other accommodations within the county which are rented to transients. For the purposes of this division, it is immaterial that the sale of tangible personal property is consummated by delivery in another county or that tangible personal property leased or rented is or may be located in another county; provided, however, no tax shall be imposed where the tangible personal property sold is delivered by the retailer or his agent to the purchaser at a point outside this State or to a common carrier for delivery to the purchaser at a point outside this State.

**G.S. 105-164.52. Use tax imposed; Limited to items upon which the State now imposes a three percent (3%) use tax.** The use tax which may be imposed under this division shall be at the rate of one percent (1%) of the cost price of each item or article of tangible personal property when the same is not sold but used, consumed or stored for use or consumption in the taxing county, except that no tax shall be imposed upon such tangible personal property when, if the property were subject to the use tax imposed by G.S. 105-164.6, such property would be taxed by the State of North Carolina at a rate less than three percent (3%).

Every retailer engaged in business in this State and in the taxing county and required to collect the use tax levied by G.S. 105-164.6 shall also collect the one percent (1%) use tax when such property is to be used, consumed or stored in the taxing county, said one percent (1%) use tax to be collected concurrently with the State's use tax; but no retailer not required to collect the use tax levied by G.S. 105-164.6 shall be required to collect the one percent (1%) use tax. The use tax contemplated by this Section shall be levied against the purchaser, and his liability for such use tax shall be extinguished only upon his payment of the use tax to the retailer, where the retailer is required to collect the tax, or to the Commissioner of Revenue, where the retailer is not required to collect the tax.

Where a local sales or use tax has been paid with respect to said tangible personal property by the purchaser thereof, either in another taxing county within the State, or in a taxing jurisdiction outside the State where the purpose of the tax is similar in purpose and intent to the tax which may be imposed pursuant to this division, said tax may be credited against the tax imposed under this Section by a taxing county upon the same property. If the amount of sales or use tax so paid is less than the amount of the use tax due the taxing county under this Section, the purchaser shall pay to the Commissioner of Revenue an amount equal to the difference between the amount so paid in the other taxing county or jurisdiction and the amount due in the taxing county hereunder. The Commissioner of Revenue may require such proof of payment in another taxing county or jurisdiction as he deems to be necessary and proper. The use tax levied hereunder shall not be subject to credit for payment of any state sales or use tax not imposed for the benefit and use of counties and municipalities.

**G.S. 105-164.53. Collection and administration of local sales and use tax; authorization to promulgate rules and regulations.** The Commissioner of Revenue shall collect the local sales and use tax imposed by any county pursuant to the provisions of this division and shall be charged with the duty of administering the local sales and use tax authorized to be imposed by this division. In addition to the present statutory provisions authorizing the Commissioner of Revenue to adopt and promulgate rules and regulations pertaining to the administration and collection of taxes under this Article, the Commissioner of Revenue is empowered to promulgate such additional rules and regulations as are necessary and proper for the implementation of this division.

**G.S. 105-164.54. Retail bracket system; application to local sales and use tax.** For the convenience of the retailer in collecting the State sales and use tax due at the rate of three percent (3%) and the county sales and use tax due at the rate of one percent (1%), and to facilitate the administration of this Article, every retailer making sales subject to the tax

imposed and levied herein shall add to the sale price, collect from the purchaser and remit to the Commissioner of Revenue on all taxable sales an amount equal to the following:

No amount on sales of less than 10¢

1¢ on sales of 10¢ to 29¢

2¢ on sales of 30¢ to 59¢

3¢ on sales of 60¢ to 84¢

4¢ on sales of 85¢ to \$1.12

Sales over \$1.12 — straight four percent (4%) with major fractions governing.

The use of the bracket system, set out above, shall not relieve the retailer from the duty and liability of collecting and remitting to the Commissioner of Revenue an amount equal to the tax imposed by the State and the taxing county under this Article.

**G.S. 105-164.55. Retailer to collect tax.** Every retailer having a place of business in any taxing county levying a sales and use tax under this division, shall on and after the effective date of the tax herein levied collect the one percent (1%) local sales and use tax provided by this division.

The tax to be collected under this division shall be collected as a part of the sales price of the item of tangible personal property sold, the cost price of the item of tangible personal property used, or as a part of the charge for the rendering of any services, renting or leasing of tangible personal property, or the furnishing of any accommodations taxable hereunder. The total taxes imposed under this Article shall be stated and charged separately from the sales price or cost price, shall be shown separately on the retailer's sales record, and shall be paid by the purchaser to the retailer as trustee for and on account of the county wherein the tax is imposed. It is the intent and purpose of this division that the local sales and use tax herein authorized to be imposed and levied by counties shall be added to the sales price and that the tax shall be passed on to the purchaser instead of being borne by the retailer. The Commissioner of Revenue shall design, print and furnish to all retailers the necessary forms for filing returns and instructions to insure the full collection from retailers, and the Commissioner may adapt the present form used for the reporting and collecting of the State sales and use tax to this purpose.

**G.S. 105-164.56. Disposition and distribution of taxes collected; counties and municipalities to share with tax districts.** The Commissioner of Revenue shall, on a quarterly basis, distribute to the taxing counties and to the municipalities therein the net proceeds of the tax collected under this division, which amount shall be determined by deducting taxes refunded, the cost to the State of collecting and administering the tax in the taxing counties and such other deductions as may be properly charged to the taxing counties, from the gross amount of the tax remitted to the Commissioner of Revenue from the taxing counties. The Commissioner shall determine the cost of collection and administration, and that amount shall be retained by the State before distribution of the net proceeds of the tax.

The amount distributable to each taxing county and to the municipalities therein from the net proceeds of the tax collected under this division shall be determined upon the following basis:

- (a) One half (1/2) of the net proceeds collected in each taxing county shall be returned to that county, and the amounts so returned to each taxing county shall in turn be divided between the county and the municipalities therein in proportion to the total amount of ad valorem taxes levied by each during the fiscal year next preceding such distribution. For purposes of this Section, the amount of the ad valorem taxes levied by each county and municipality shall include any ad valorem taxes levied by such county or municipality in behalf of a taxing district or districts and collected by the county and municipality. In computing the amount of tax proceeds to be distributed to any county or municipality, the amount of any ad valorem taxes levied but not substantially

collected shall be ignored. Each county and municipality receiving a distributable share of the sale and use tax levied under this division shall in turn share the proceeds with any district or districts in behalf of which the county or municipality levied ad valorem taxes in the proportion that the district levy bears to the total levy of the county or municipality.

(b) The remainder of the net proceeds of the tax collected in the taxing counties shall be distributed to the taxing counties and to the municipalities therein upon a per capita basis according to the total population of all taxing counties, plus the total population of the municipalities therein. For this purpose, the Commissioner of Revenue shall determine a per capita figure by dividing the remainder of the net proceeds of the tax collected under this division for the preceding quarter within the taxing counties by the total population of the taxing counties plus the total population of all municipalities therein according to the most recent federal decennial census. The per capita figure thus derived shall be multiplied by the population of each respective taxing county and each respective municipality therein according to the most recent annual estimates of population as certified to the Commissioner of Revenue by the Director of the North Carolina Department of Administration. The Director of the North Carolina Department of Administration shall annually cause to be prepared and shall certify to the Commissioner of Revenue such reasonably accurate population estimates of all counties and municipalities in the State as may practicably be developed, and each respective product shall be the amount to be distributed to each taxing county and to each municipality therein.

**G.S. 105-164.57. Definitions; Application of other provisions of Article 5; Construction of this division; Penalties.** The definitions set forth in G. S. 105-164.3 shall apply to this division insofar as such definitions are not inconsistent with the provisions of this division, and all other provisions of Article 5 as the same relate to the North Carolina Sales and Use Tax Act shall be applicable to this division unless such provisions are inconsistent with the provisions of this division. In construing and interpreting the provisions of this division, the Commissioner of Revenue may uniformly apply the administrative interpretations which have heretofore been made by the Department of Revenue with respect to the North Carolina Sales and Use Tax Act. It is the intention of this division that the provisions of this division and the provisions of the North Carolina Sales and Use Tax Act, insofar as it is practicable, shall be harmonized.

The penalty provisions now applicable to the enforcement of the North Carolina Sales and Use Tax Act shall be applicable in like manner to the tax authorized to be levied and collected under this division."

**Sec. 2.** The provisions of Section 1 of this Act shall not be applicable with respect to any building materials purchased for the purpose of fulfilling any lump sum or unit price contract entered into or awarded, or entered into or awarded pursuant to any bid made, before the effective date of the tax imposed by a taxing county when, absent the provisions of this Section, such building materials would otherwise be subject to tax under the provisions of Section 1 of this Act.

**Sec. 3.** If any provisions of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

**Sec. 4.** All laws and clauses of laws in conflict with this Act are hereby repealed.

**Sec. 5.** This Act shall be in full force and effect upon its ratification.

In the General Assembly read three times and ratified, this the 2nd day of July, 1969.